
COMMONWEALTH OF VIRGINIA



OFFICE OF THE GOVERNOR

Executive Order 99 (2005)

DECLARATION OF A STATE OF EMERGENCY TO ASSIST WISE COUNTY AND THE TOWN OF BIG STONE GAP DUE TO A CRITICAL WATER SHORTAGE

On October 7, 2005, I verbally declared a state of emergency to exist for the Wise County and the Town of Big Stone Gap to assist these localities in responding to a critical water shortage. In accordance with § 44-146.17, the Commonwealth will provide resources and assistance to the fullest extent possible as needed to assist with measures that may be needed to deal with the water shortages.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the *Code of Virginia*, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by §44-75.1 of the *Code of Virginia*, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued October 7, 2005, wherein I proclaimed that a state of emergency exists and directed that appropriate assistance be rendered by agencies of the state government to respond to needs in Wise County and the Town of Big Stone Gap to alleviate adverse conditions created by the water shortage. Pursuant to §44-75.1.A.3 and A.4 of the *Code of Virginia*, I directed that the Virginia National Guard be called forth to state duty to assist in providing such aid. This shall include such functions as the State Coordinator of Emergency Management, the Adjutant General, and the Secretary of Public Safety, may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recover from its effects, and in accordance with my authority contained in §44-146.17 of the Emergency Services and Disaster Laws, I hereby order the following measures:

- A. The limited implementation by agencies of the state and local governments of Volume 1 (Basic Plan and Volume 2 (Disaster Recovery Plan) of the Virginia Emergency Operations Plan, as amended, along with other appropriate state agency plans.
- B. Limited activation of the Virginia Emergency Operations Center (VEOC) and Virginia Emergency Response Team (VERT) to coordinate the provision of assistance to the impacted localities. I am directing that the VEOC and VERT coordinate state operations in support of this emergency declaration, other mission assignments to agencies designated in the Commonwealth of Virginia Emergency Operations Plan (COVEOP) and other measures that may be identified by the State Coordinator of Emergency Management, in consultation with the Secretary of Public Safety, which are needed to provide assistance for the preservation of life, protection of property, and implementation of recovery activities.
- C. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to §§ 44-146.19(D) and 44-146.28:1 of the *Code of Virginia* to provide for the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, §44-146.28:1 of the *Code of Virginia*.
- D. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight, over width, registration, or license exemptions to all carriers transporting essential commodities in and through any area of the Commonwealth in order to support the emergency conditions, regardless of their point of origin or destination.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds

Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	54,500 Pounds
Tractor-Semi trailer (4 Axles)	64,500 Pounds
Tractor-Semi trailer (5 or more Axles)	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles)	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds
All over width loads, up to a maximum of 14 feet, must follow Virginia Department of Transportation (VDOT) hauling permit and safety guidelines.	

In addition to described overweight/over width transportation privileges, carriers are also exempt from registration with the Department of Motor Vehicles. This includes the vehicles in route and returning to their home base. The above-cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to §52-8.4 of the *Code of Virginia*.

The foregoing overweight/over width transportation privileges as well as the regulatory exemption provided by §52-8.4.A of the *Code of Virginia*, and implemented in §19 VAC 30-20-40.B of the "Motor Carrier Safety Regulations," shall remain in effect for 30 days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

- E. The discontinuance of provisions authorized in paragraph D above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected cabinet secretaries.
- F. This state of emergency constitutes a major medical emergency under the Rules and Regulations of the Board of Health Governing Emergency Medical Services, pursuant to Article 3.01 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1, of the *Code of Virginia*, Statewide Emergency Medical Services System and Services, and exemptions specified in the Rules and Regulations regarding patient transport and provider certification in disasters apply.

- G. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in §44-146.28 (b) of the *Code of Virginia*. Section 44-146.24 of the *Code of Virginia* also applies to the disaster activities of state agencies
- H. Designation of members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters, and others identified and tasked by the State Coordinator of Emergency Management for specific disaster-related mission assignments as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of §44-146.23 (a) of the *Code of Virginia*, in the performance of their specific disaster-related mission assignments.
- I. The following conditions apply to the deployment of the Virginia National Guard:
 - 1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Management, shall make available on state active duty such units and members of the Virginia National Guard and such equipment as may be necessary or desirable to assist in alleviating the human suffering and damage to property.
 - 2. Pursuant to §52-6 of the *Code of Virginia*, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by §52-7 of the *Code of Virginia* shall be provided for them at the expense of the Commonwealth.
 - 3. In all instances, members of the Virginia National Guard shall remain subject to military command as prescribed by §44-78.1 of the *Code of Virginia* and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the

Virginia Departments of State Police or Emergency Management or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

- (a) Workers Compensation benefits provided to members of the National Guard by the Virginia Workers Compensation Act, subject to the requirements and limitations thereof; and, in addition,
- (b) The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers Compensation Act during the same month. If and when the time period for payment of Workers Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the *Code of Virginia*, and subject to the availability of future appropriations that may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

5. Upon my approval, the costs incurred by the Department of Military Affairs in performing these missions shall be paid from state funds.

J. The activation of the statutory provisions in § 59.1-525 et seq. of the Code of Virginia related to price gouging. Price gouging at any time is unacceptable. Price gouging is even more reprehensible after a natural disaster. I have directed all applicable executive branch agencies to take immediate action to address any verified reports of price gouging of necessary goods or services. I make the same request of the Office of Attorney General and appropriate local officials.

K. I hereby direct all state agencies in the affected area to implement the highest possible level of water conservation consistent with public health and safety.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the *Code of Virginia*, other than costs defined in Item 5 of the paragraphs above pertaining to the Virginia National Guard, in performing these missions shall be paid from state funds.

This Executive Order shall be effective October 7, 2005, and shall remain in full force and effect until February 28, 2006, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any Federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 7th day of October 2005.

Mark R. Warner, Governor

Attest: _____
Secretary of the Commonwealth